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In the Supreme Court

OF THE

United States

OCTOBER TERM, 1990

JOHN K. YEE AND IRENE S. YEE, H.N.
and FRANCES C. BERGER FOUNDATION,
MOUNTAIN SHADOWS MOBILE HOME ESTATES,
RICHARD C. KUEBLER DBA MOONGLOW MOBILE HOME PARK,
CASA DE AMIGOS MOBILE HOME ESTATE, VISTA VERDE, LTD.,
IMPERIAL ESCONDIDO MOBILE ESTATES AND MILDRED D. TACEY,
Petitioners,

vs.

THE CITY OF ESCONDIDO,
Respondent.

**On Petition for a Writ of Certiorari
To The Fourth Appellate District,
Division One, Court of Appeal
For The State of California**

BRIEF AMICUS CURIAE OF THE CITY OF SAN JOSE IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI AND AFFIRMANCE

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BRIEF AMICUS CURIAE OF THE CITY OF SAN JOSE IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI AND AFFIRMANCE

Pursuant to Supreme Court Rule No. 37.5, the City of San Jose, California, respectfully submits this brief amicus curiae in support of Petition for Writ of Certiorari and for affirmance of the judgment of the California Court of Appeal.

INTEREST OF AMICUS CURIAE

The City of San Jose is the third largest city in the State of California with approximately 780,000 residents. Like many other major cities throughout the country it has a serious shortage of housing, *Pennell v. City of San Jose*, 485 U.S. 1, 12, 108 S.Ct. 849, 99 L.Ed.2d 1, 14 (1988), and, in particular, a shortage of affordable housing for persons of low or moderate incomes. This housing crisis is particularly acute in California. See *Cotati Alliance for Better Housing v. City of Cotati*, 148 Cal.App.3d 280, 292-93 (1983).

In an effort to protect a portion of its low and moderate income households from excessive rents as a result of the housing shortage, the City of San Jose adopted a general housing rent control ordinance in 1979. In 1986, the City separated its mobilehome rent control regulations from the apartment rent control regulations. In adopting the mobilehome specific ordinance, the City held public hearings on the issue of controlling space rent upon the sale of mobilehomes, i.e. vacancy control. Ultimately, the City Council adopted the 1986 ordianance with a vacancy control provision. However, in direct response to the United States Court of Appeals decision by a panel of the Ninth Circuit in *Hall v. City of Santa Barbara*, 833 F.2d 1270 (9th Cir. 1986), *cert. denied*, 485 U.S. 940, 108 S.Ct. 1120, 99 L.Ed.2d 281 (1988), the City of San Jose amended its mobilehome rent control ordinance to include a vacancy decontrol provision in 1989. This was done by the City Council solely for purposes of avoiding or minimizing any potential liability as a result of the *Hall* decision. The San Jose City Council has consistently found vacancy control to be in the public interest.

Subsequent to the *Hall* decision, two published California appellate court decisions and at least one unpublished California appellate court decision have refused to follow the *Hall* decision.

Yee v. City of Escondido, 224 Cal.App.3d 1349 (1990),[1] *Casella v. City of Morgan Hill*, 230 Cal.App.3d 43, 280 Cal.Rptr. 876 (1991) and *Palomar Mobilehome Park Ass'n. v. City of San Marcos*, No. D011484, 4th Dist., Div. One.[2]

As a result of the inconsistent published opinions existing between the Ninth Circuit *Hall* decision and the two California appellate court decisions, *Yee* and *Casella*, there exists a serious conflict as to whether a mobilehome rent control ordinance in California without vacancy decontrol is a "taking".[3]

The San Jose City Council believes it would be in the public interest to amend its mobilehome rent control ordinance to delete the vacancy decontrol provision.[4] However, the serious conflict

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[1] The California Supreme Court denied review on January 24, 1991.

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[2] A Petition for Writ of Certiorari is currently pending before the United States Supreme Court in this matter. *Palomar Mobilehome Park Ass'n. v. City of San Marcos*, U.S. Supreme Court No. 90-1824. The City of San Jose alternatively strongly urges the Supreme Court to grant the Petition in the Palomar case on the same grounds herein set forth.

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[3] This conflict is highlighted in a recent Ninth Circuit decision. See *Sierra Lake Reserve v. City of Rocklin*,_____ F.2d_____ (9th Cir. 1991).

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[4] Public testimony before the San Jose Mobilehome Advisory Commission demonstrated substantial rent increases upon sale of the mobilehome since vacancy decontrol was initiated. On July 2, 1991, the San Jose City Council directed the San Jose City Attorney to draft an amendment to its mobilehome rent control ordinance to escrow such rent increases pending the United States Supreme Court's final determination of the "vacancy control" issue.

over the issue of whether a mobilehome rent control ordinance without a vacancy decontrol provision is a "taking", exposes the City to significant potential liability if it removes the provision.[5] The City respectfully urges the Supreme Court to grant the Petition for Writ of Certiorari in this case or in *Palomar*, *supra*, in order to clarify the need for a vacancy decontrol provision in a mobilehome rent control ordinance to avoid a finding that it is a "taking". Further, the City respectfully requests that after fully considering this matter, the Supreme Court find that vacancy control in a mobilehome rent control ordinance is not a "taking" but a permissible economic regulation and affirm the decision of the California court below.

THIS PETITION FOR WRIT OF CERTIORARI SHOULD BE GRANTED

Supreme Court Rule 10(.1) provides in part as follows:

> A petition for writ of certiorari will be granted only when there are special and important reasons therefor.

Rule 10(.1)(b) contains the following example of a type of "special and important" reason which will be considered:

> When a state court of last resort has decided a federal question in a way that conflicts with the decision of another state court of last resort or the United States Court of Appeals.

The matter presented in this petition fits squarely within this example. In *Hall v. City of Santa Barbara*, 833 F.2d 1270 (9th Cir. 1986), *cert. denied*, 845 U.S. 940, 108 S.Ct. 1120, 99 L.Ed.2d 281 (1988), a Ninth Circuit panel relying upon *Loretto v. Teleprompter Manhattan CATV Corp.*, 458 U.S. 419, 102 S.Ct. 3164, 73 L.Ed.2d 868 (1982), found that the allegations in the complaint that a mobilehome rent control ordinance without a

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[5] San Jose has approximately 60 mobilehome parks containing a total of more than 10,000 mobilehome spaces.

vacancy decontrol provision resulted in a "taking" sufficiently stated a claim for a taking by physical occupation. 833 F.2d at 1276.

The California Supreme Court has let stand opinions directly contrary to the *Hall* decision. Explicitly rejecting the Ninth Circuit decision in *Hall*, two published California appellate decisions and at least one unpublished California appellate decision have found no taking under circumstances very similar to *Hall*.

In addition to the case at bar, the California Court of Appeal, Sixth Appellate District, which is the district for the City of San Jose, published a decision in the case of *Casella v. City of Morgan Hill*, 230 Cal.App.3d 43, 280 Cal.Rptr. 876 (1991), involving the Morgan Hill mobilehome rent control ordinance. The ordinance, as amended in 1986, did not allow a rental increase when a mobilehome changed ownership but remained in the park. 230 Cal.App.3d at 46. Relying upon *Hall*, the mobilehome park owners alleged that the Morgan Hill mobilehome rent control ordinance, in combination with the California Mobilehome Residency Law (California Civil Code Section 798, *et seq.*) effected a transfer of property interests from the landlord to the tenant, tantamount to a physical taking of property. 230 Cal.App.3d at 50. California law prohibits evictions without good cause and requires a park owner to accept as a new tenant a person who purchases a mobilehome from an existing tenant unless the new tenant does not have the financial ability to pay or, based on past tenancies, has demonstrated that he or she will not comply with park rules and regulations. (California Civil Code Section 798.74.) The California Court of Appeal "repudiate[d] *Hall's* attempt to bootstrap a mobile home rent control ordinance — an economic regulation — to the Supreme Court's 'very narrow' holding in *Loretto*." 230 Cal.App.3d at 52. The Court found that the allegations of the complaint failed to state a cause of action for a taking under the federal Constitution and/or the state Constitution, and that the

ordinance is a permissible economic regulation. 230 Cal.App.3d at 56-57.

The Sixth District followed the State of California Court of Appeal, Fourth Appellate District, which on February 6, 1991, in the unpublished decision *Palomar Mobilehome Park Ass'n. v. City of San Marcos*, No. D011484, 4th Dist., Div. One, held that the San Marcos mobilehome park rent control ordinance, without a vacancy decontrol provision, was a permissible economic regulation and did not constitute a taking.[6]

Likewise, in the case at bar, the California Court of Appeal, Fourth District, in *Yee v. City of Escondido*, 224 Cal.App.3d 1349 (1990), correctly rejected the *Hall* rationale while holding that the mobilehome rent control ordinance with vacancy control of the City of Escondido, in combination with state law, did not result in a taking but was a permissible economic regulation.

The City of San Jose strongly believes that the California courts in *Casella*, *Palomar* and *Yee* have correctly determined that mobilehome rent control in California without a vacancy decontrol provision is a permissible economic regulation. The City Council desires to amend the City's ordinance to delete the vacancy decontrol provision which was added purely in response to the *Hall* decision.[7] However, as a result of the serious conflict which exists in California from the inconsistent decisions between the Ninth Circuit Court of Appeals and the California appellate courts, the City cannot determine whether mobilehome rent control without vacancy decontrol is a permissible economic regulation as it strongly believes, or an impermissible taking as determined in *Hall*.

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[6] See footnote 2, *supra*.

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[7] Mobilehome park residents, aware of the state court rulings, do not understand why the City cannot simply impose vacancy control.

Like the California state courts, the Connecticut Supreme Court has also found no "taking" when reviewing the validity of a state statute which guaranteed the mobilehome owner the right to sell the home on-site with limited exceptions. *Eamiello v. Liberty Mobile Home Sales*, 208 Conn. 620, 546 A.2d 805 (1988).

On the other hand, in *Pinewood Estates of Michigan v. Barnegat Township Leveling Board*, 898 F.2d 347 (3rd Cir. 1990), a panel of the Third Circuit United States Court of Appeals reviewed a similar mobilehome park rent control ordinance which did not contain a vacancy decontrol provision. The Third Circuit panel agreed with *Hall* and found the allegations in the complaint alleged sufficient facts to support a finding that the ordinance, in conjunction with state law, provides for a permanent physical occupation constituting a taking without provision for compensation. 898 F.2d at 350. The *Pinewood* decision is flawed for the same reasons as the *Hall* decision.

The serious conflict between state court decisions and decisions of the United States Court of Appeals on this extremely important issue hamstrings the ability of California cities as well as cities throughout the country to regulate a matter of intense local concern.[8]

It is respectfully requested that the United States Supreme Court grant the Petition for Writ of Certiorari and, after a full review of these issues, affirm the decision of the California Court of Appeal.

THE CALIFORNIA APPELLATE DECISION WAS CORRECTLY DECIDED AND SHOULD BE AFFIRMED

In the case at bar, Yee, a mobilehome park owner, relying on *Hall v. City of Santa Barbara*, *supra*, asked the California Court

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[8] The conflict between the state and federal appellate courts is dramatized by a recent Ninth Circuit decision, *Sierra Lake Reserve v. City of Rocklin*, _____ F.2d _____ (9th Cir. 1991).

of Appeal, Fourth District, to reconsider an issue of constitutional law which had been reviewed six years before in *Oceanside Mobilehome Park Owners' Association v. City of Oceanside*, 157 Cal.App.3d 887 (1984). In the *Oceanside* case, the Court had rejected an argument made by the park owners that a rent control ordinance constituted a compensable "taking" because tenants were able to realize a premium on the sale of their mobilehomes in a rent controlled park compared with the price similar homes sold for in a non-rent controlled park. *Yee*, *supra*, 224 Cal.App.3d at 1351; *Oceanside*, 157 Cal.App.3d at 906-907.

The *Yee* Court fully considered the constitutional argument including full consideration of the *Hall* decision and its rationale. The Court found "*Hall's* reasoning unpersuasive and reaffirm[ed] the conclusion . . . reached in *Oceanside*." *Yee*, *supra*, 224 Cal.App.3d at 1351.

In *Yee*, the Court correctly found that the rent control ordinance was a permissible economic regulation. It specifically rejected *Hall's* conclusion that a rent control ordinance without vacancy decontrol is a taking by "physical occupation". *Yee*, *supra*, 224 Cal.App.3d at 1357-1358.

A. THE ESCONDIDO ORDINANCE IS PERMISSIBLE ECONOMIC REGULATION

The United States Supreme Court, recognizing that "the function of government may often be to tamper with free markets, correcting their failures and aiding their victims . . ." (*Fisher v. City of Berkeley*, 475 U.S. 260, 264, 106 S.Ct. 1045, 89 L.Ed.2d 206, 211 (1986)), has rendered decisions establishing that local governments may, consistent with their police power, adopt rent control ordinances where imperfections in the unregulated market for rental housing allow landlords to charge excessive rents. (See *Pennell v. City of San Jose*, 485 U.S. 1, 11-12, 108 S.Ct. 849, 99 L.Ed.2d 1, 13-15 (1988).) The United States Supreme Court has repeatedly reaffirmed that rent control ordinances are not per se takings for the purposes of the Fifth Amendment's requirement of just compensation. (*Id.* at 12, n. 6;

FCC v. Florida Power Corporation, 480 U.S. 245, 252, 107 S.Ct. 1107, 94 L.Ed.2d 282, 290 (1987).)

As noted by the *Yee* court:

> Mobilehomes and mobilehome park spaces are what economists refer to as complementary goods. Because they are used together, there is a direct and necessarily inverse relationship between the prices for complementary goods.
>
> . . .
>
> Where the price charged for a good or a service is excessively high due to monopoly or other unfair conditions, it necessarily follows that the price for complementary goods and services will be artificially low. Where a government regulation purports to reduce the excessive and unfair price to a reasonable level, the mere fact that the price for complementary goods and services rises as a result does not transmute an otherwise reasonable price regulation into a compensable "taking."

Yee, *supra*, 224 Cal.App.3d at 1352-1353.

A mobilehome rent control ordinance is an economic regulation intended to correct imperfections in the unregulated market by limiting the ability of landlords to charge excessive rents.[9] *See*, e.g. *Oceanside*, *supra*, 157 Cal.App.3d at 910-911. Because the ability to charge excessive rents is limited or eliminated by a mobilehome rent control ordinance, mobilehomes in a mobilehome park in a rent controlled jurisdiction will necessarily have increased value. *Yee*, *supra*, 224 Cal.App.3d at 1352-1353. The mobilehome park owner has lost some value because

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[9] California courts have recognized other purposes of mobilehome rent control, e.g., to facilitate and encourage fair bargaining between mobilehome owners and park owners. *Oceanside*, *supra*, 157 Cal.App.3d at 893.

he is no longer able to charge excessive rents, while at the same time the tenant's mobilehome has increased value because the rent for the space is limited to a fair and reasonable amount. *Id.* The critical question is not whether the mobilehome has increased in value but whether the controlled rents are fair and reasonable. *Casella*, *supra*, 230 Cal.App.3d at 56. The *Yee* Court correctly stated the following in this regard:

> Here, plaintiffs' complaints never allege the Escondido ordinance is irrational because it denies them fair and reasonable rents. Indeed, the owners have never attempted to obtain Escondido's approval for what they consider to be a "fair" rent. In the absence of such a contention, we assume the rents provided for by the ordinance are fair. If they are, there is no "taking."

Yee, *supra*, 224 Cal.App.3d at 1354.

As pointed out by the *Yee* Court, "[t]he fact that used mobilehomes in Escondido are selling for more than they have in the past is irrelevant." *Yee*, *supra*, 224 Cal.App.3d at 1354.

B. THE *HALL* COURT INCORRECTLY DETERMINED THAT A MOBILEHOME RENT CONTROL ORDINANCE WITHOUT VACANCY DECONTROL IS A TAKING BY PHYSICAL OCCUPATION

In *Hall v. City of Santa Barbara*, 833 F.2d 1270 (9th Cir. 1986), a Ninth Circuit panel reviewed a mobilehome rent control ordinance adopted by the City of Santa Barbara in August 1984. The Santa Barbara ordinance also did not contain a vacancy decontrol provision. The Ninth Circuit panel reviewed both "regulatory taking cases" (e.g. *Penn Central Transporation Co. v. New York City*, 438 U.S. 104, 98 S.Ct. 2646, 57 L.Ed.2d 631, *rehearing denied*, 439 U.S. 883, 99 S.Ct. 226, 58 L.Ed.2d 198 (1978)) as well as "physical occupation cases" (e.g. *Loretto v. Teleprompter Manhattan CATV Corp.*, 458 U.S. 419, 102 S.Ct. 3164, 73 L.Ed.2d 868 (1982)). The panel concluded that "[w]hen viewed in the light most favorable to the Halls, the allegations of the complaint seem to present a claim for taking by physical

occupation...." *Hall*, *supra*, at 1276. In reaching this conclusion the Court relied principally upon *Loretto v. Teleprompter Manhattan CATV Corp.*, 458 U.S. 419, 102 S.Ct. 3164, 73 L.Ed.2d 868 (1982).[10]

For the reasons stated by the *Yee* Court, *supra*, and the *Casella* Court, *supra*, the Supreme Court should find that Hall was incorrectly decided and should be overruled.

1. The Mobilehome Rent Control Ordinance Is Not A Taking By Physical Occupation

The rent control ordinance here is not a "physical occupation" under the *Loretto*, *supra*, decision. In *Loretto*, a New York law made it *mandatory* for landlords to permit a cable television company to install its facilities on their property. In direct contrast, in *Yee*, the right to occupy a particular space within a mobilehome park is originally obtained "consensually".[11] The park owner voluntarily chooses to rent his or her space to mobilehome owners. *Yee*, *supra*, 224 Cal.App.3d at 1358. Therefore, the landlord voluntarily transfers a "possessory interest" in property to the mobilehome owners in exchange for rents. *Yee*, *supra*, 224 Cal.App.3d at 1354, 1358.

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[10] *Hall* was decided before the United States Supreme Court rendered its decision in *Pennell v. City of San Jose*, 485 U.S. 1, 108 S.Ct. 849, 99 L.Ed.2d 2081 (1988). The *Hall* Court indicated a general concern about the legitimacy of rent control. *Hall*, *supra*, 833 F.2d 1281, note 26. The *Pennell* decision clarified that rent control is not a "per se" taking and advances legitimate public purposes. (See *Pennell*, *Id.* at 12-13 n. 6.)

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[11] This is also a critical distinction in view of the decision in *FCC v. Florida Power*, 480 U.S. 245, 107 S.Ct. 1107, 94 L.Ed.2d 282 (1987), discussed *infra*.

To the extent that mobilehome owners obtain any "permanent occupancy" rights, such rights are derived from the state Mobilehome Residency Law which was enacted unrelated to mobilehome rent control regulations and has been in place since 1978.[12] The state law is similar to common law provisions that a landlord may not unreasonably withhold consent to the assignment of a lease. (See e.g. *Kendall v. Ernest Pestana, Inc.*, 40 Cal.3d 488 (1985).)

The *Loretto* Court specifically noted the following with respect to the effect of its holding on landlord-tenant relationships:

> Finally, we do not agree with appellees that application of the physical occupation rule will have dire consequences for the government's power to adjust landlord-tenant relationships. This court has consistently affirmed that states have broad power to regulate housing conditions in general and the landlord-tenant relationship in particular without paying compensation for all economic injuries that such regulation entails.
>
> *Loretto*, *supra*, 458 U.S. at 440, 73 L.Ed.2d at 885.

The Escondido rent control ordinance does not give rise to a "physical occupation" as described in *Loretto* but is an exercise of reasonable regulatory power.[13]

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[12] California Mobilehome Residency Law was adopted by California Statutes 1978 ch. 1031 §1.

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[13] Indeed, it is no more a forced "physical occupation" than apartment rent control ordinances which have vacancy control provisions. See *Fisher v. City of Berkeley*, 37 Cal.3d 644 (1984), *app. dism.*, 471 U.S. 1124, 105 S.Ct. 2653, 86 L.Ed.2d 270 (1985).

2. The *Hall* Court Incorrectly Focused On The Tenants' Ability To Sell Mobilehomes For A Higher Amount Due To The Rent Control Ordinance

The *Hall* Court found it "crucial" that the existing tenant has the ability to "monetize" future rent control savings and recapture them from later tenants when the mobilehome is sold. *Hall*, *supra*, 833 F.2d at 1279. The California Court of Appeal in *Casella v. City of Morgan Hill*, *supra*, correctly found this "crucial" assertion to be nothing more than the necessary consequences of economic controls on the mobilehome housing market. As the Court stated:

> What *Hall* found crucial, we regard as a truism; an inevitable part of the unique relationship between a mobilehome park owner and his or her tenant. The park owner has an equity interest in the park land; the tenant in his or her coach.
>
> . . .
>
> Like others, we question *Hall's* failure to explain why a tenant's ability to reap an economic benefit from rent control is crucial to a resolution of the constitutional question. As Justice Weiner points out in *Yee*, mobilehome rent control, which arguably benefits only the tenant in place at the time it is enacted, does not differ conceptually from other rent control, which benefits all succeeding tenants equally: "If an owner's property has been taken by the government, it should be of no constitutional consequence to whom the property has been given. . . . In both cases . . . the value 'taken' from the property owner is conceptually identical." (*Yee v. Escondido*, *supra*, 224 Cal.App.3d at 1356, footnote omitted.)

Casella, *supra*, 230 Cal.App.3d at 53-54.

Furthermore, as the *Yee* Court, the *Casella* Court and others have pointed out, any increase in the sales prices of mobilehomes

resulting from rent control may simply reflect the artificially low price caused by excessive rents charged prior to its enactment.[14]

Increased value to the mobilehome as a necessary indirect consequence of rent control is irrelevant to the determination of whether a taking has occurred.

3. *FCC v. Florida Power Corp.* Demonstrates That The *Hall* Rationale Is Flawed

The United States Supreme Court decided *FCC v. Florida Power Corp.*, 480 U.S. 245, 107 S.Ct. 1107, 94 L.Ed.2d 282 (1987), after the *Hall* decision. In that case, the Court dismissed the contention by a utility company that a federal statute which authorized the FCC to determine the rates which they could charge cable television companies for the attachment of cable television equipment on their poles constituted a "taking". The Eleventh Circuit Court of Appeals found that the reduction in the amount that could be charged to the cable television companies resulted in a taking by "physical occupation". *FCC*, 480 U.S. at 250, 94 L.Ed.2d at 289.

The Supreme Court noted that unlike *Loretto*, *supra*, the public utility landlords had voluntarily entered into the leases with cable company tenants. The Court stated the following in this regard:

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[14] See Berger, *Home Is Where The Heart Is: A Brief Reply To Professor Epstein*, 54 Brooklyn Law Review 1239. Professor Berger points out, "[t]he burden may seem somewhat harsher for those who are owners when rent regulation is first installed, but the usual prelude to government control of rents or condominium conversions is a housing shortage which allows landlords to charge high economic rents or enter the sales market. To be thwarted from exploiting a housing shortage may disappoint such owners, but commercial frustration, in the circumstances, hardly seems unjust." *Id.* at 1246.

> Appellees contend, in essence, that it is a taking under *Loretto* for a tenant invited to lease at a rent of $7.15 to remain at the regulated rent of $1.79. But it is the *invitation*, not the rent, that makes the difference. The line which separates these cases from *Loretto* is the unambiguous distinction between a commercial lessee and an interloper with a government license.

FCC, 480 U.S. at 252-253, 94 L.Ed.2d at 290 (emphasis added).

The Supreme Court specifically noted that it "characterized [its] holding in *Loretto* as 'very narrow'." *FCC*, 480 U.S. at 251, 94 L.Ed.2d at 289. The Court also stated the following: "As we observed in *Loretto*, statutes regulating the economic relations of landlords and tenants are not per se takings." *FCC*, 480 U.S. at 252, 94 L.Ed.2d at 290.

Similarly here, the mobilehome park owners voluntarily permit occupation of their spaces. The *FCC* case clearly discloses that the Supreme Court did not intend the *Loretto* "physical occupation" analysis to apply to ordinary landlord-tenant regulations.

CONCLUSION

Urban housing shortages and high rents present a serious problem. Mobilehome rent control ordinances, with vacancy control, are economic regulations seeking to protect present and future mobilehome owners from excessive rents while at the same time provide the mobilehome park owners a fair and reasonable return. A serious conflict exists between California state court decisions and a decision in the Ninth Circuit United States Court of Appeals on this issue of significant importance to many cities throughout California and the rest of the nation.

For the reasons stated herein, amicus, City of San Jose, urges the United States Supreme Court to grant the Petition for Writ of Certiorari and affirm the judgment of the California Court of Appeal.

Dated: July 19, 1991

Respectfully submitted,

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